

Notice of Allowability

Application No.

10/062,879

Examiner

Dong Jiang

Applicant(s)

COCKETT ET AL.

Art Unit

1646

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to amendment filed on 2/15/05.
2. ☒ The allowed claim(s) is/are 22-29 to issue as 1-8, respectively.
3. ☒ The drawings filed on 31 January 2002 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit
of Biological Material

5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413),
Paper No./Mail Date _____
7. ☐ Examiner's Amendment/Comment

8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____

Elizabeth C. Kemmerer

ELIZABETH KEMMERER
PRIMARY EXAMINER

Examiner's Statement of Reasons for Allowance

Applicant's amendment filed on 15 February 2005 is acknowledged and entered. Following the amendment, claims 1-7, 10-16, 19 are canceled, claims 22-25 are amended, and the new claims 26-29 are added.

Currently, claims 22-29 are pending and under consideration.

The following is an examiner's statement of reasons for allowance: claims 22-29 of the present invention are directed to a recombinantly-produced polypeptide comprising SEQ ID NO:2 or SEQ ID NO:4 (splicing variant). The present specification discloses that said polypeptides are human Kv4.3 potassium channel polypeptides, and are expressed in human heart and brain. With respect to the utility of the polypeptides, citing the prior art, the specification indicates that the Kv4 channel has a major role in the repolarization of cardiac atrial action potentials. Prior art reference by Dixon et al. (Circ Res. 1996 Oct., 79(4):659-68) discloses the role of the Kv4.3 K⁺ channel in ventricular muscle as that the Kv4.3 channel underlies a significant fraction, if not all, of the transient outward current (I_{to}) in canine and human heart (page 667, the right column). As such, the prior art has established that the Kv4.3 K⁺ channel represents a major functional potassium channel in heart. Further, the prior art sequence search results do not teach or suggest the identical polypeptide sequence as that of SEQ ID NO:2 or 4.

Conclusion:

Claims 22-29 are allowed.

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Advisory Information:

Any inquiry concerning this communication should be directed to Dong Jiang whose telephone number is 571-272-0872. The examiner can normally be reached on Monday - Friday from 9:30 AM to 7:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anthony Caputa, can be reached on 571-272-0829. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Elizabeth C. Kemmerer

ELIZABETH KEMMERER
PRIMARY EXAMINER

Dong Jiang, Ph.D.
Patent Examiner
AU1646
4/14/05